



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : David Yach  
TITLE : Virtual Machine Web Browser  
SERIAL NO. : 09/728,543  
FILING DATE : December 1, 2000  
EXAMINER : A. Strange  
GROUP ART UNIT : 2153  
ATTORNEY DOCKET NO. : 555255012129

Declaration of Prior Invention to Overcome Cited Patents Under 37 C.F.R. § 1.131

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

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**DEC 01 2004**

Technology Center 2100

This Declaration is submitted by the undersigned inventor to establish that the subject matter described and claimed in this application was invented prior to June 18, 1999, which is the earliest effective filing date of United States Patent No. 6,446,111 to Lowery. As this Declaration demonstrates, the present invention was conceived of prior to June 18, 1999 and the inventor then diligently worked toward reducing the invention to practice and filing a patent application on this invention from prior to June 18, 1999, to the effective filing date of this application, which is December 3, 1999.

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
on Nov. 24, 2004

By: Debbie Sejan

I, David Yach, the inventor of United States Patent Application S/N 09/728,543, titled "Virtual Machine Web Browser," declare as follows:

1. Prior to June 18, 1999, I conceived of the invention described and claimed in this patent application. The following documents, which are attached to this Declaration, were all created prior to June 18, 1999, and demonstrate conception of the claimed invention:

Tab A: Blackberry Internet Content Functional Specification

The document set forth at Tab A, titled "Blackberry Internet Content Functional Specification, describes conception of the invention described and claimed in this patent application by me prior to June 18, 1999. Although the document was drafted by one of my co-workers, Mr. Gary Mousseau, the parts of the document highlighted below, and in the attached claim chart attached at Tab B, were derived from my work. A Declaration by Mr. Mousseau in support of this fact is being presented herewith.

For example, the following sections of this document describe the invention claimed in this application: (A) the last three paragraphs of page 6, which describe the process of converting various forms of content to Java VM language, and also converting the Java VM programs into byte-codes; mentions different forms of content, including HTML, XML, WML, Visual Basic, HDML, Java, etc. -- and specifically states that all such forms of content would be converted into byte code; (B) Section 6.2 describes the VM program interpreter (for use at the handheld device) to replace the Traditional Internet Browser; (C) Section 7 describes the host components of the invention, including the transformation engine, which provides the content translation into VM programs for execution by the program interpreter at the client device.

I have attached at Tab D a detailed claim chart showing precise correspondence between these sections of the document attached at Tab A and the primary set of claims pending in this application, which is claims 1-26. As shown in detail in the claim chart, the non-cancelled claims are fully supported by the teachings of the document at Tab A, thereby establishing conception of the claimed subject matter prior to the effective date of the Lowery reference. The

remaining claims 27-43 include similar concepts and limitations to claims 1-26 and thus conception of these claims are also clearly supported by the document at Tab A.

2. From prior to June 18, 1999 to December 3, 1999 (when the provisional application 60/169,032 was filed to which this application claims priority) I diligently worked on reducing the invention to practice and also working with our in house patent department to prepare and file the provisional application to which this application claims priority.

Tab B: VMLite.cpp Revision History -- Attached at Tab B is a listing of changes that were made, some by myself, others by co-workers that were working with me, on a program called VMLite.cpp. This program was used to execute the browser code created by the host system when transcoding web pages (and other types of information) into executable programs. It is what is referred to above, and in the Document at Tab A, as the program interpreter, which operates at the mobile device to execute the byte-code programs generated by the host system. Many of the pending claims explicitly refer to this program interpreter – for example claim 2 refers to the virtual machine engine, which is this program.

Tab B is a “history dump” from the software revision control system that we were using at the time to track changes and control the software development process for code being worked on at our company. Any time that a software developer made a change to a program under control of this system, a new history entry would be stored, and the changes made to the program would also be tracked. The “history dump” shows when changes were being made to a given program, and thus establishes the period of time during which the program was being actively developed.

Tab B shows a portion of this “history dump” for the claimed virtual machine engine, for the period of time from June 23, 1999 through December 9, 1999. The different versions of the program during this time are labeled 1.1, 1.2, 1.3, 1.4., 1.5..., 1.24. For example, the first entry, which is at the end of the listing labeled “1.1” has a date of 99.06.23.13.37.07. The first two digits represent the year – 1999 – the second two digits the month – June – and the third two

digits the day – the 23<sup>rd</sup>. The ending 6 digits represent the precise time at which the new version of the program was saved into the revision control system. Additional versions of the program interpreter (23 in all) were checked into the revision control system in August, September, October, November and December of 1999, clearly establishing that we were diligently working on this part of the claimed invention during the time period at issue.

In addition to this actual reduction to practice work, we diligently worked with our in house patent counsel during this time period to prepare a patent application. In November, 1999, we transmitted a draft of the provisional application 60/169,032 to our outside patent counsel. Prior to this time we were working diligently on prepare the draft. A copy of this draft is attached at Tab C. The provisional application was later filed on December 3, 1999.

3. I hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

By:   
David Yach

Date: Nov 23, 2009